Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
	)	

COMMENTS OF THE STATE OF ALASKA

In its Further Notice of Proposed Rulemaking, the Commission raised questions concerning the potential impact of intercarrier compensation reform on the ability of providers of interexchange service to comply with rate integration and geographic rate averaging requirements.[1] At this time, the State of Alaska ("the State") does not endorse or oppose any specific intercarrier compensation reform proposal. It submits these brief comments only to respond to some of the questions posed by the Commission concerning those statutory requirements.

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1 *In the Matter of Developing a Unified Intercarrier Compensation Regime*, Further Notice of Proposed Rulemaking, CC Docket No. 01-92, FCC 05-33, ¶¶ 83-86 (March 3, 2005) ("Further Notice").

Geographic rate averaging requires providers of intrastate and interstate interexchange telecommunications services to charge rates in rural and high-cost areas that are no higher than the rates they charge in urban areas. This is known as the rule. Rate integration requires providers of interstate interexchange telecommunications services to charge rates in each state that are no higher than those in any other state. 47 U.S.C. § 254(g); 47 C.F.R. § 64.1801.

The Commission's questions are founded on its concern that "the competitive realities of the marketplace may drive increasing specialization of companies serving rural as opposed to non-rural areas, ultimately leading to higher costs and fewer competitive choices for rural consumers."[2] It then goes on to ask whether there are circumstances where the Commission should forbear from the rate averaging and rate integration requirements.

The State appreciates the Commission's concern that reform of intercarrier compensation arrangements not lead to any increase in interexchange service rates or any reduction in competition in rural or high-cost areas. Those outcomes would clearly be contrary to both the policy objectives and the legal requirements set forth by Congress in the initial Communications Act of 1934, and in the Telecommunications Act of 1996. And indeed, the Commission has taken steps to reduce the differences in access charges levied by larger local exchange carriers operating in both urban and rural areas (such as the Bell Operating Companies) and those levied by smaller local exchange carriers serving only rural areas to reduce pressures on interexchange carriers either to raise prices or to cease providing service in rural and high-cost areas.[3]

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2 Further Notice, ¶ 86.

3 *See, e.g., Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers; Federal-State Joint Board on Universal Service; Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation; Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers*, 16 FCC Rcd 19,613, 19,644

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Although it is prudent for the Commission to consider the impact in the marketplace of changes in intercarrier compensation arrangements, the State does not believe that the impact of those changes would justify forbearance or permit any reduction in the application of geographic rate averaging and rate integration requirements for both legal and factual reasons.

As a legal matter, rate integration and geographic rate averaging have been fundamental policies of the Commission for decades. Congress then codified and expanded upon these requirements when it adopted the Telecommunications Act of 1996. The fact that access charges in some areas are higher than in other areas does not justify any lessening of the commitment to these requirements, nor does the emergence of regional carriers such as the RBOCs. When Congress enacted the geographic rate averaging and rate integration requirements, it did so with full knowledge of both the disparity in access charges then in place and the other provisions of the Telecommunications Act that would allow RBOCs to offer long distance service. Indeed, as noted above, the Commission has taken steps to reduce access charge differentials, thus lessening the burden of any remaining differences and any economic incentive for carriers not to serve rural or high-cost areas.

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¶ 64 (2001) ("Eliminating the CCL charge also will facilitate compliance with geographic rate averaging and rate integration requirements by interexchange carriers, and encourage interexchange carriers to compete for long distance customers in rural areas.").

Moreover, Congress clearly instructed the Commission that forbearance from geographic rate averaging is appropriate only in limited circumstances and forbearance from rate integration is appropriate, if at all, in even rarer circumstances. Although the Commission has previously agreed to forebear from applying geographic rate averaging in limited circumstances (to temporary promotions, for example), it has not forborne from the application of rate integration.[4] Indeed, because rate integration is founded on the core non-discrimination requirements of Section 202(a) of the Communications Act,[5] it is difficult to envision a circumstance in which forbearance would be appropriate.

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4 *Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended*, 19 FCC Rcd 6746, 6749 ¶ 8 (2004) ("Indeed, Congress explicitly stated that the Commission 'could continue to authorize limited exceptions to the general rate averaging policy' using the forbearance authority provided by section 10 of the Act. Accordingly, the Commission concluded that it could exercise its forbearance authority to permit carriers to depart from geographic rate averaging to the extent necessary to offer temporary promotions and private line services in accordance with the policy already in existence. ***By contrast*** ... the Commission did not forbear from the rate integration principle for any service."(emphasis added)).

5 *See, e.g., Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the Contiguous States and Alaska, Hawaii, Puerto Rico and the Virgin Islands*, Notice of Proposed Rulemaking, CC Docket No. 83-1376, RM 4436, 1985 FCC LEXIS 2532, FCC 85-520, ¶ 10 (Sept. 25, 1985) ("Rate integration, as established in *Domsat II*, implicitly is a recognition that a rate structure that averages rates in forty-eight states and deaverages rates in two states could subject the residents of those two states to an unreasonable disadvantage and that, therefore, a rate structure that uses different ratemaking methods to determine the rates that different users pay for comparable services is inconsistent with the national policy prohibiting unjust or unreasonable rate discriminations, as expressed in Section 202(a)"); *MTS and WATS Market*

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Marketplace reality is that major telecommunications companies (whether offering traditional wireline service, wireless service, or even Voice over Internet Protocol services) seek to provide service as ubiquitously as possible. As a general proposition, they find that the broader the geographic reach of their service, the higher quality and more cost effective the service they can offer their customers. Nationwide carriers control their own network and therefore can design that network to meet their own needs with respect to the specific services they offer and the quality of service their customers receive. Use of their own networks provides nationwide facilities-based carriers a cost advantage over competitors who must lease or resell the capacity of others. Nationwide service offerings also provide other cost advantages, such as more cost-effective national advertising. Geographic rate averaging and rate integration guarantee that the resulting efficiencies are shared by all consumers, regardless of where they live.

For all of the reasons set forth above, the State submits that geographic rate averaging and rate integration remain fundamental policies of both Congress and the Commission. Adopting an intercarrier compensation plan that makes compliance with those requirements less difficult may well be advisable, but those requirements must be adhered to regardless of the outcome of this proceeding.

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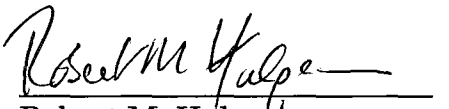
Structure, 81 FCC 2d 177, 192 (1980) ("a rate structure which uses different ratemaking methods to determine the rates which different users pay for comparable services is inconsistent with the national policy expressed in Section 202(a)").

Respectfully submitted,



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